

Message Text

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70

ORIGIN L-03

INFO OCT-01 EA-09 ISO-00 PM-04 NSC-05 SP-02 SS-15 DODE-00

CIAE-00 INR-07 NSAE-00 AID-05 MC-02 EB-07 TRSE-00

INRE-00 NSCE-00 SSO-00 H-02 IGA-02 OMB-01 ACDA-10

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DRAFTED BY L/PM - JMICHEL:RF

APPROVED BY T - CMAW

PM/SAS - MR. KOCHANЕК

EA/RA - MR. FINCH

EA/IMS - MR. INGRAHAM

S/S - RGAMBLE

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FM SECSTATE WASHDC

TO AMEMBASSY JAKARTA IMMEDIATE

UNCLAS STATE 189709

E.O. 11652: N/A

TAGS: MASS, ID

SUBJECT: IMPLEMENTATION OF NEW STATUTORY CONDITION OF
ELIGIBILITY FOR MILITARY ASSISTANCE AND TRAINING

REF: A) STATE 186976; B) JAKARTA 978;

1. RECENTLY ENACTED INTERNATIONAL SECURITY ASSISTANCE AND
ARMS EXPORT CONTROL ACT OF 1976 AMENDS SECTION 505(A) OF
FAA, CONCERNING CONDITIONS OF MAP ELIGIBILITY, SO AS TO
MAKE EXISTING LIMITATIONS ON USE AND TRANSFER OF USG-
FURNISHED DEFENSE ARTICLES APPLICABLE AS WELL TO QUOTE
RELATED TRAINING AND OTHER DEFENSE SERVICES UNQUOTE. THIS
NEW PROVISION, EFFECTIVE JULY 1, 1976, (SEE TEXT PARA 2,
BELOW) REQUIRES THAT WE OBTAIN AGREEMENT FROM EACH RECIPIENT
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OF GRANT TRAINING AND OTHER DEFENSE SERVICES RELATED TO
FURNISHING OF MAP OR FMS DEFENSE ARTICLES TO EFFECT THAT
RECIPIENT WILL, INTER ALIA, USE SUCH TRAINING AND SERVICES
ONLY FOR PURPOSES FOR WHICH FURNISHED, WILL MAINTAIN

SECURITY OF SUCH TRAINING AND SERVICES, AND WILL NOT TRANSFER SUCH TRAINING OR SERVICES TO THIRD PARTIES WITHOUT PRIOR USG CONSENT.

2. TEXT OF AMENDED SECTION 505(A) READS AS FOLLOWS: QUOTE
(A) IN ADDITION TO SUCH OTHER PROVISIONS AS THE PRESIDENT

MAY REQUIRE, NO DEFENSE ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICES SHALL BE FURNISHED TO ANY COUNTRY ON A GRANT BASIS UNLESS IT SHALL HAVE AGREED THAT --

--- (1) IT WILL NOT, WITHOUT THE CONSENT OF THE PRESIDENT --

--- (A) PERMIT ANY USE OF SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE BY ANYONE NOT AN OFFICER, EMPLOYEE, OR AGENT OF THAT COUNTRY,

--- (B) TRANSFER, OR PERMIT ANY OFFICER, EMPLOYEE, OR AGENT OF THAT COUNTRY TO TRANSFER SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE BY GIFT, SALE, OR OTHERWISE, OR

--- (C) USE OR PERMIT THE USE OF SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE FOR PURPOSES OTHER THAN THOSE FOR WHICH FURNISHED;

--- (2) IT WILL MAINTAIN THE SECURITY OF SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE AND WILL PROVIDE SUBSTANTIALLY THE SAME DEGREE OF SECURITY PROTECTION AFFORDED TO SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE BY THE UNITED STATES GOVERNMENT;

--- (3) IT WILL, AS THE PRESIDENT MAY REQUIRE, PERMIT CONTINUOUS OBSERVATION AND REVIEW BY, AND FURNISH NECESSARY INFORMATION TO, REPRESENTATIVES OF THE UNITED STATES GOVERNMENT WITH REGARD TO THE USE OF SUCH ARTICLES OR RE-UNCLASSIFIED

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LATED TRAINING OR OTHER DEFENSE SERVICE; AND

--- (4) UNLESS THE PRESIDENT CONSENTS TO OTHER DISPOSITION, IT WILL RETURN TO THE UNITED STATES GOVERNMENT FOR SUCH USE OR DISPOSITION AS THE PRESIDENT CONSIDERS IN THE BEST INTERESTS OF THE UNITED STATES, SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE WHICH ARE NO LONGER NEEDED FOR THE PURPOSES FOR WHICH FURNISHED. END QUOTE.

3. ADDRESSEE SHOULD NOTE FOLLOWING ABOUT THIS NEW REQUIREMENT:

A. IT IS A CONDITION OF ELIGIBILITY FOR THE FURNISHING ON A GRANT BASIS OF FURTHER MAP MATERIEL AND SERVICES, OR FURTHER TRAINING RELATED TO THE USE OF MAP OR FMS ORIGIN MATERIEL OR SERVICES UNDER THE NEW INTERNATIONAL MILITARY

EDUCATION AND TRAINING CHAPTER OF THE FAA. IT DOES NOT AFFECT ELIGIBILITY FOR PURCHASE OF DEFENSE ARTICLES AND DEFENSE SERVICES UNDER FMS. (A SIMILAR NEW STATUTORY REQUIREMENT FOR FMS ELIGIBILITY WILL BE IMPLEMENTED SEPARATELY THROUGH AN AMENDMENT TO THE STANDARD FORM FMS CONTRACT.)

B. IT REQUIRES AGREEMENT OF RECIPIENT TO OBSERVE ABOVE-DESCRIBED CONDITIONS WITH RESPECT TO TRAINING OR SERVICES RELATED TO U.S. FURNISHED ARTICLES, NO MATTER WHEN SUCH ARTICLES, TRAINING, OR SERVICES WERE FURNISHED.

C. AS A CONDITION OF ELIGIBILITY, THIS NEW STATUTORY REQUIREMENT WILL PRECLUDE THE USE OF APPROPRIATED FUNDS UNTIL THE REQUISITE AGREEMENT IS OBTAINED FOR NEW GRANTS OF MATERIEL AND SERVICES AND NEW EQUIPMENT RELATED TRAINING STARTS FOR COUNTRIES WITH WHICH EXISTING AGREEMENTS DO NOT MEET NEW REQUIREMENTS. PENDING FINAL AGREEMENT, WE CONSIDER THAT WE WILL BE ABLE TO JUSTIFY CONTINUATION OF TRAINING IN PROGRESS, INCLUDING INTRODUCTION OF NEW STUDENTS INTO ONGOING PROGRAMS. HOWEVER, OUR AUTHORITY TO PROCEED IN ABSENCE OF AN AGREEMENT IS VERY LIMITED AND IT IS IMPERATIVE THAT AGREEMENTS BE UNCLASSIFIED

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TAINED ASAP IN ORDER TO AVOID PROGRAM DISRUPTION AND, POSSIBLE, LOSS OF AVAILABLE FUNDS AT END OF TRANSITION QUARTER.

D. THE NEW REQUIREMENT DOES NOT PROHIBIT TRAINING WHICH IS NOT RELATED TO U.S. FURNISHED DEFENSE ARTICLES. ACCORDINGLY, OTHER FORMS OF TRAINING (E.G., ACADEMIC COURSES) WILL CONTINUE AS SCHEDULED. NEVERTHELESS, IN IMPLEMENTING THE STATUTE, WE CAN AVOID SEVERAL DIFFICULTIES AND POSSIBLE MISUNDERSTANDINGS IF WE AVOID DISTINCTION BETWEEN EQUIPMENT RELATED TRAINING AND OTHER TRAINING. ACCORDINGLY, USG WILL SEEK TO OBTAIN AGREEMENT THAT THE RECIPIENT WILL OBSERVE THE SAME CONDITIONS OF USE AND NON-TRANSFER FOR TRAINING AND SERVICES GENERALLY AS HAVE HERETOFORE BEEN REQUIRED BY U.S. LAW FOR DEFENSE ARTICLES.

4. THE NEW LEGISLATION ALSO REQUIRES THAT 30 DAYS PRIOR TO CONSENT BY THE UNITED STATES GOVERNMENT TO ANY SUCH PROPOSED TRANSFER, A REPORT BE SUBMITTED TO THE CONGRESS LISTING THE NAME OF THE COUNTRY PROPOSING TO MAKE THE TRANSFER, A DESCRIPTION OF THE DEFENSE ARTICLE OR RELATED TRAINING OR DEFENSE SERVICE AND ITS ORIGINAL ACQUISITION

COST, THE NAME OF THE PROPOSED RECIPIENT, THE REASONS FOR THE PROPOSED TRANSFER, AND THE DATE ON WHICH THE TRANSFER

IS PROPOSED TO BE MADE. THIS WRITTEN CERTIFICATION WILL BE UNCLASSIFIED, WITH THE POSSIBLE EXCEPTION OF THE VALUE AND NUMBER OF DEFENSE ARTICLES, OR RELATED TRAINING OR OTHER DEFENSE SERVICES.

5. AGREEMENTS IN FORCE WITH GOI EXPRESS AGREEMENT BY THE RECIPIENT TO OBSERVE RESTRICTIONS ON USE AND TRANSFER SET OUT IN SECTION 505(A) OF FAA WITH RESPECT TO DEFENSE ARTICLES FURNISHED BY USG. IN ORDER TO IMPLEMENT THE NEW STATUTE AND PRESERVE HOST GOVERNMENTS MAP AND/OR TRAINING ELIGIBILITY, IT WILL BE NECESSARY TO SEEK HOST GOVERNMENT AGREEMENT VIA EXCHANGE OF NOTES THAT THE CONDITIONS HITHERTO APPLICABLE TO U.S. ORIGIN DEFENSE ARTICLES AND EQUIPMENT WILL BE APPLICABLE TO TRAINING AND SERVICES FURNISHED BY USG AS WELL.

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6. TEXT OF SUGGESTED NOTE FOLLOWS:

BEGIN TEXT. THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF FOREIGN AFFAIRS OF THE GOVERNMENT OF INDONESIA AND HAS THE HONOR TO REFER TO RECENTLY ENACTED PROVISIONS OF UNITED STATES LAW AFFECTING ELIGIBILITY FOR U.S. MILITARY ASSISTANCE.

THE PROVISIONS OF THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976 ESTABLISH NEW STATUTORY AUTHORITY FOR MILITARY EDUCATION AND TRAINING WHICH HERETOFORE HAS BEEN FURNISHED BY THE UNITED STATES GOVERNMENT AS A DEFENSE SERVICE UNDER ITS MILITARY ASSISTANCE PROGRAM. IN ADDITION, THEY PROHIBIT THE FURNISHING OF MILITARY ASSISTANCE OR RELATED TRAINING UNLESS THE RECIPIENT COUNTRY AGREES THAT IT WILL OBSERVE THE SAME CONDITIONS REGARDING TRAINING AND SERVICES AS HAVE PREVIOUSLY BEEN REQUIRED WITH RESPECT TO DEFENSE ARTICLES. THESE CONDITIONS ARE THAT, WITHOUT THE CONSENT OF THE UNITED STATES GOVERNMENT, THE RECIPIENT COUNTRY WILL NOT PERMIT THE USE OF SUCH ARTICLES, SERVICES, OR TRAINING BY ANYONE NOT AN OFFICER, EMPLOYEE, OR AGENT OF THAT COUNTRY; THAT IT WILL NOT TRANSFER OR PERMIT THEIR TRANSFER BY GIFT, SALE, OR OTHERWISE; THAT IT WILL NOT USE THEM OR PERMIT THEIR USE FOR PURPOSES OTHER THAN THOSE FOR WHICH FURNISHED; THAT IT WILL MAINTAIN THEIR SECURITY; THAT IT WILL PERMIT CONTINUOUS OBSERVATION AND REVIEW BY UNITED STATES GOVERNMENT REPRESENTATIVES REGARDING THEIR USE; AND THAT, UNLESS THE UNITED STATES GOVERNMENT CONSENTS TO OTHER DISPOSITION, IT WILL RETURN THEM TO THE UNITED STATES GOVERNMENT WHEN NO LONGER NEEDED.

THE AGREEMENT BETWEEN THE UNITED STATES GOVERNMENT AND THE GOVERNMENT OF INDONESIA DATED APRIL 4, 1967 CONTAINS THE REQUISITE ASSURANCES WITH RESPECT TO DEFENSE ARTICLES FURNISHED TO THE GOVERNMENT OF INDONESIA BY THE UNITED STATES GOVERNMENT. IN ORDER TO IMPLEMENT THE NEWLY ENACTED PROVISIONS OF UNITED STATES LAW, IT IS PROPOSED THAT THE GOVERNMENT OF INDONESIA AGREE THAT THE ASSURANCES SET FORTH IN THAT AGREEMENT AS APPLICABLE TO DEFENSE ARTICLES, IN PARTICULAR THOSE ASSURANCES GOVERNING THE UNCLASSIFIED

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USE AND TRANSFER OF SUCH DEFENSE ARTICLES, SHALL HENCEFORTH BE APPLICABLE AS WELL TO TRAINING NOW FURNISHED UNDER THE SEPARATE MILITARY EDUCATION AND TRAINING PROGRAM, AND TO DEFENSE SERVICES FURNISHED TO THE GOVERNMENT OF INDONESIA BY THE UNITED STATES GOVERNMENT.

IT IS FURTHER PROPOSED THAT THE MINISTRY'S REPLY STATING THAT THE FOREGOING IS ACCEPTABLE TO THE GOVERNMENT OF INDONESIA SHALL, TOGETHER WITH THIS NOTE, CONSTITUTE AN AGREEMENT BETWEEN THE GOVERNMENTS ON THIS SUBJECT, TO BE EFFECTIVE FROM THE DATE OF THE MINISTRY'S NOTE IN REPLY.

(COMPLIMENTARY CLOSE) END TEXT.

7. ADDRESSEE AUTHORIZED TO NEGOTIATE AND CONCLUDE EXCHANGE OF NOTES USING FOREGOING TEXT. ANY PROPOSED SUBSTANTIVE CHANGES SHOULD BE REFERRED TO THE DEPARTMENT FOR PRIOR APPROVAL.

8. PLEASE REPORT BY TELEGRAM (ATTENTION: PM/SAS) WHEN NOTES ARE EXCHANGED, AND TRANSMIT ORIGINAL OF MINISTRY NOTE AND CERTIFIED COPY EMBASSY NOTE TO DEPARTMENT (L/T) PER 11 FAM 700. KISSINGER

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<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 15 SEP 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AMENDMENTS, MILITARY ASSISTANCE AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 30 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE189709
Document Source: ADS
Document Unique ID: 00
Drafter: L/PM - JMICHEL:RF
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: D760295-0845
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197607109/baaaepor.tel
Line Count: 256
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: hackerp0
Review Comment: n/a
Review Content Flags:
Review Date: 26 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 APR 2004 by ThomasVJ>; APPROVED <03 JAN 2005 by hackerp0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> gwr 970924
Subject: IMPLEMENTATION OF NEW STATUTORY CONDITION OF
TAGS: MASS, ID, US
To: JAKARTA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006